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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,563	08/30/2001	Maria-Jose Arbulu Barturen	FR920010023US1	2529

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IBM CORPORATION  
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EXAMINER

PHAM, CHRYSTINE

ART UNIT

PAPER NUMBER

2122

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/943,563

Applicant(s)

BARTUREN ET AL.

Examiner

Christine Pham

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/03/03 ; 05/13/04 ; 05/27/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Remarks

1. This action is responsive to application 09/943563 filed on August 30<sup>th</sup> 2001. Claims 1-11 are presented for examination.

### Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless –*

*(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

4. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Apfel et al. (US 5974454), hereinafter, *Apfel et al.*.

### Claim 1

*Apfel et al.* teach **an integrated data processing system** (e.g., see FIG.2, FIG.3, FIG.4A, FIG.4B & associated text) **for managing a process** (i.e., method) **of delivery of software products** (e.g., see Abstract) **to target software product execution units** (e.g., see *personal computer 20* FIG.1 & associated text; see *personal computer 20, end-user station 88a* FIG.2 & associated text; see *end-user stations* col.6:3-17) **in a network environment** (e.g., see *Internet 60* FIG.2 & associated text; see *personal computer 20, remote computers 49* col.4:60-5:5), **comprising:**

- a central repository for storing software components at least one software product (e.g., see *PACKAGE SERVER 80b* FIG.2 & associated text; see *repositories* col.5:62-65; col.6:20-26);
- a first sub-system for identifying within the central repository software components of software product be delivered (i.e., first sub-system manages storage in the central repository of the software components software product to be delivered) (e.g., see *query 100* FIG.3 & associated text; see *database query, database lookup* col.2:36-45; col.6:45-59; see *upgrade* col.7:13-20);
- a second sub-system for creating at least one software product package from the identified software components identified by the first sub-system (e.g., col.9:35-41), and
- a third sub-system for distributing the least one software product package created by the second sub-system to the target software product execution units and installing the software product package thereon (e.g., see *115* FIG.3 & associated text; see FIG.4A, FIG.4B & associated text; see Abstract; col.1:6-13).

#### Claim 2

The rejection of base claim 1 is incorporated. *Apfel et al.* further teach a software package distribution repository for storing the at least one software product package created by the second sub-system from the identified software components (e.g., see *PACKAGE SERVER 80b* FIG.2 & associated text; col.5:20-27).

#### Claim 3

The rejection of base claim 1 is incorporated. *Apfel et al.* further teach the third sub-system distributes the at least one software product package to target software product execution units belonging to at least one environment according at least one role assigned the least one software product package by the second sub-system (e.g., see *configuration of computer 20, different upgrade package* col.6:65-67; *type of operating system, upgrade package URL, query* col.8:52-9:5; col.9:35-42).

#### Claim 4

The rejection of base claim 1 is incorporated. Claim recites limitations, which have been addressed in claim 1, therefore, is rejected for the same reasons as cited in claim 1.

**Claim 5**

The rejection of base claim 1 is incorporated. *Apfel et al.* further teach a **fourth sub-system for performing a building process of software code components among the identified software components of the software product be delivered, the fourth sub-system storing result of building process in the central repository (i.e., building identified source code components of the software product delivered stored the central repository, and storing the result the building the central repository)** (e.g., col.9:35-41; see step 451 FIG.4B & associated text; see *executable upgrade package* col.10:61-63).

**Claim 6**

The rejection of base claim 1 is incorporated. *Apfel et al.* further teach a **fifth sub-system managing a process applying changes an already delivered software product** (e.g., see *upgrade package* col.2:52-57; see step 454 FIG.4B & associated text; see *upgraded versions* col.5:20-27; see 115 FIG.3 & associated text; col.7:55-col.8:6).

**Claim 7**

The rejection of base claim 1 is incorporated. *Apfel et al.* further teach a **sixth sub-system for recording information provided by at least one of the first through fifth sub-systems the integrated data processing system during delivery of the software product** (e.g., see steps 421, 430, 431 FIG.4A & associated text; see *error message* col.9:15-20; see *"NOUPDATE" message* col.9:42-48).

**Claim 8**

Claim recites a method for delivering software products to target software product execution units in a network environment as have been addressed in claim 1, therefore, is rejected for the same reasons as cited in claim 1.

**Claim 9**

The rejection of base claim 8 is incorporated. Claim recites limitations, which have been addressed in claim 3, therefore, is rejected for the same reasons as cited in claim 3.

**Claim 10**

The rejection of base claim 8 is incorporated. Claim recites limitations, which have been addressed in claim 2, therefore, is rejected for the same reasons as cited in claim 2.

**Claim 11**

The rejection of base claim 10 is incorporated. Claim recites limitations, which have been addressed in claim 5, therefore, is rejected for the same reasons as cited in claim 5.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:
  - o Method and system for providing automated updating and upgrading of antivirus applications using a computer network, Hodges et al. (US 6269456)
  - o Method and apparatus for software maintenance at remote nodes, Albright et al. (US 6110228)
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chrystine Pham whose telephone number is 571.212.3702. The examiner can normally be reached on Mon-Fri, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q Dam can be reached on 571.272.3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chrystine Pham  
Examiner  
GAU 2122  
November 29, 2004



**TUAN DAM**  
**SUPERVISORY PATENT EXAMINER**